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9 **BEFORE THE**
RESPIRATORY CARE BOARD
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

12 In the Matter of the Statement of Issues Against:

Case No. S-379

13 SERGEY STEPANYANTS
1012 S. Adams Street, Apt. #10
14 Glendale, California 91205

STATEMENT OF ISSUES

15 Respondent.
16

17 Complainant alleges:

18 PARTIES

19 1. Stephanie Nunez (Complainant) brings this Statement of Issues solely in
20 her official capacity as the Executive Officer of the Respiratory Care Board of California
21 (Board), Department of Consumer Affairs.

22 2. On or about September 18, 2006, the Board received an application for a
23 Respiratory Care Practitioner License from Sergey Stepanyants (Respondent). On or about
24 September 11, 2006, Respondent certified under penalty of perjury to the truthfulness of all
25 statements, answers, and representations in the application. The Board denied the application on
26 November 20, 2006.

27 JURISDICTION

28 3. This Statement of Issues is brought before the Board under the authority of

1 the following laws. All section references are to the Business and Professions Code (Code),
2 unless otherwise indicated.

3 4. Section 3710 of the Code states: “The Respiratory Care Board of
4 California, hereafter referred to as the board, shall enforce and administer this chapter [Chapter
5 8.3, the Respiratory Care Practice Act].”

6 5. Section 3718 of the Code states: “The board shall issue, deny, suspend,
7 and revoke licenses to practice respiratory care as provided in this chapter.”

8 6. Section 3732, subdivision (b) of the Code states:

9 "The board may deny an application, or may order the issuance of a license
10 with terms and conditions, for any of the causes specified in this chapter for
11 suspension or revocation of a license, including, but not limited to, those causes
12 specified in Sections 3750, 3750.5, 3752.5, 3752.6, 3755, 3757, 3760, and 3761."

13 7. Section 3750 of the Code states:

14 “The board may order the denial, suspension or revocation of, or the
15 imposition of probationary conditions upon, a license issued under this chapter, for
16 any of the following causes:

17 “ . . .

18 “(d) Conviction of a crime that substantially relates to the qualifications,
19 functions, or duties of a respiratory care practitioner. The record of conviction or a
20 certified copy thereof shall be conclusive evidence of the conviction.

21 “ . . .

22 “(j) The commission of any fraudulent, dishonest, or corrupt act which is
23 substantially related to the qualifications, functions, or duties of a respiratory care
24 practitioner.

25 “ . . . ”

26 8. Section 3752 of the Code states:

27 “A plea or verdict of guilty or a conviction following a plea of nolo
28 contendere made to a charge of any offense which substantially relates to the

1 qualifications, functions, or duties of a respiratory care practitioner is deemed to be
2 a conviction within the meaning of this article. The board shall order the license
3 suspended or revoked, or may decline to issue a license, when the time for appeal
4 has elapsed, or the judgment of conviction has been affirmed on appeal or when an
5 order granting probation is made suspending the imposition of sentence,
6 irrespective of a subsequent order under Section 1203.4 of the Penal Code allowing
7 the person to withdraw his or her plea of guilty and to enter a plea of not guilty, or
8 setting aside the verdict of guilty, or dismissing the accusation, information, or
9 indictment.”

10 9. California Code of Regulations, Title 16, section 1399.370, states:

11 “For the purposes of denial, suspension, or revocation of a license, a crime
12 or act shall be considered to be substantially related to the qualifications, functions
13 or duties of a respiratory care practitioner, if it evidences present or potential
14 unfitness of a licensee to perform the functions authorized by his or her license or
15 in a manner inconsistent with the public health, safety, or welfare. Such crimes or
16 acts shall include but not be limited to those involving the following:

17 “ . . .

18 “(b) Conviction of a crime involving fiscal dishonesty theft, or larceny.

19 “(c) Conviction of a crime involving driving under the influence or reckless
20 driving while under the influence.

21 “. . . .”

22 COST RECOVERY

23 10. Section 3753.5, subdivision (a) of the Code states:

24 "In any order issued in resolution of a disciplinary proceeding before the
25 board, the board or the administrative law judge may direct any practitioner or
26 applicant found to have committed a violation or violations of law to pay to the
27 board a sum not to exceed the costs of the investigation and prosecution of the
28 case."

1 11. Section 3753.7 of the Code states:

2 "For purposes of the Respiratory Care Practice Act, costs of prosecution
3 shall include attorney general or other prosecuting attorney fees, expert witness
4 fees, and other administrative, filing, and service fees."

5 12. Section 3753.1, subdivision (a) of the Code states:

6 "An administrative disciplinary decision imposing terms of probation may
7 include, among other things, a requirement that the licensee-probationer pay the
8 monetary costs associated with monitoring the probation."

9 FIRST CAUSE FOR DENIAL OF APPLICATION

10 (Conviction of a Crime)

11 13. Respondent's application is subject to denial under Business and
12 Professions Code sections 3750, subdivision (d), and 3752, and California Code of
13 Regulations, Title 16, section 1399.370, subdivisions (b) and (c), in conjunction with
14 Business and Professions Code section 3732, subdivision (b), in that respondent has
15 sustained convictions of crimes substantially related to the qualifications, functions and
16 duties of a respiratory care practitioner. The circumstances are as follows:

17 May 11, 2006 Conviction

18 A. On or about December 22, 2005, a Glendale police officer observed
19 Respondent speeding in his vehicle through an intersection and almost collide with
20 another vehicle. Respondent continued driving at the same speed and failed to stop
21 even though the police officer activated the red light on his vehicle and then his air
22 horn. Respondent finally pulled over and stopped when the officer activated his
23 vehicle's siren. Upon contact with Respondent, the officer noticed that his speech
24 was slurred, his eyes were red and watery, and his breath and person had an odor of
25 alcohol. Respondent had no identification and refused to give the officer his name
26 and address. Respondent refused to perform the field sobriety tests, and refused to
27 take a breath or blood test.

28 B. On or about January 20, 2006, in Los Angeles County Superior

1 Court Complaint No. 6GN00402, Respondent was charged with driving under the
2 influence of alcohol, in violation of Vehicle Code section 23152(a), a misdemeanor
3 (Count 1), and reckless highway driving, in violation of Vehicle Code section
4 23103(a), a misdemeanor (Count 2).

5 C. On or about May 11, 2006, pursuant to a negotiated plea agreement,
6 Respondent was convicted upon his plea of nolo contendere to driving under the
7 influence of alcohol (Count 1). Proceedings were suspended, and Respondent was
8 placed on probation for three years on the following terms and conditions, among
9 others: pay fines and assessments in the amount of \$1,436.00, and complete a 6-
10 month licensed first-offender alcohol program. Pursuant to the negotiated plea
11 agreement, Count 2 of the complaint was dismissed.

12 February 25, 2004 Conviction

13 D. On or about March 7, 2003, a woman reported to Glendale police
14 officers that her purse had been snatched from her shopping cart in the parking lot
15 of a Vons market. The male suspect who snatched her purse ran to a waiting
16 vehicle which was driven by Respondent. Two days later, Respondent voluntarily
17 appeared at the Glendale Police Department. Respondent admitted that he drove
18 the male suspect to a Vons parking lot so that the suspect could snatch a purse.
19 The suspect chose a victim and instructed Respondent where to park and wait. The
20 male suspect snatched the purse, ran back to the vehicle, and Respondent drove off.

21 E. On or about July 8, 2003, in Los Angeles County Superior Court
22 Complaint No. 3GL02972, Respondent was charged with grand theft, in violation
23 of Penal Code section 487(a), a misdemeanor (Count 1).

24 F. On or about February 25, 2004, the complaint was amended by
25 interlineation to charge Respondent with conspiring to commit grand theft, in
26 violation of Penal Code section 182(a), a misdemeanor (Count 2). On or about
27 February 25, 2004, pursuant to a negotiated plea agreement, Respondent was
28 convicted upon his plea of nolo contendere to conspiring to commit grand theft

1 (Count 2). Proceedings were suspended, and Respondent was placed on probation
2 for eighteen months on the following terms and conditions, among others: pay fees
3 of \$20.00 and a restitution fine of \$100.00, and perform 160 hours of community
4 service. Pursuant to a negotiated plea agreement, Count 1 of the complaint was
5 dismissed.

6 SECOND CAUSE FOR DENIAL OF APPLICATION

7 (Commission of a Fraudulent, Dishonest, or Corrupt Act)

8 14. Respondent's application is subject to denial under Code section
9 3750, subdivision (j), in conjunction with section 3732, subdivision (b), in that he
10 committed a fraudulent, dishonest or corrupt act that is substantially related to the
11 qualifications, functions, or duties of a respiratory care practitioner. Respondent was
12 convicted of conspiring to commit grand theft on or about February 25, 2004. The facts
13 and circumstances, set forth in Paragraph 13, subparagraphs D through F of this Statement
14 of Issues, are incorporated herein by reference.

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PRAYER

WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Respiratory Care Board issue a decision:

- 1. Denying the application of Sergey Stepanyants for a Respiratory Care Practitioner License;
- 2. Directing Sergey Stepanyants to pay the Respiratory Care Board the costs of the investigation and enforcement of this case, and if placed on probation, the costs of probation monitoring; and
- 3. Taking such other and further action as deemed necessary and proper.

DATED: March 19, 2007

Original signed by Liane Zimmerman for:
STEPHANIE NUNEZ
Executive Officer
Respiratory Care Board of California
Department of Consumer Affairs
State of California
Complainant